IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 13435 of 2004

Between:

1 Sayyapuraju Sathyavathi w/o Chitti Venkat Raju
2 Sayyapuraju Kasi Viswanatha Raju S/o Chitti Venkata Raju
3 Sayyapuraju Kali Kumari W/o Viswanatha Raju

All are residents of Vedireswaram village, Ravulapalem Mandal E.G.Dstrict.

..... PETITIONERS

AND

1 The Government of A.P. Rep. by its Secretary, Revenue Dept.,

Secretariat Building, Hyderabad.
2 The Chief Commissioner of Land Administration, Government of A.P.

Nampally Road, Hyderabad.
3 The District Collector, E.G.Dist., Kakinada .
4 The Mandal Revenue Officer, Ravulapalem Mandal E.G.District.
5 M/s Konaseema EPS Oakwell Power Ltd., rep. by its General Manger

(Projects) Ravulapalem, Ravulapalem Mandal, E.G.district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate, writ, order or direction more particularly one in the nature of writ of Mandamus declaring the orders passed by the 3rd respondent vide his proceedings Ref.No.E2/5392/2001
dt. 12/07/2004 in alienating the land an extent of Ac. 4-51 cents covered by

S.No.8/1, 8/2, 22/2 and 25/2 of Devarapalli Village, Ravulapalem Mandal, East Godvari District in favour of 5th respondent in so far as to the extent covered by puntha road and drainage channel which is existing in the above land is illegal, arbitrary, unconstitutional, contrary to the provisions of A.P. Panchayath Raj Act and Board Standing Orders and direct the respondents not to remove the drainage channel and puntha road in an extent of land Ac.4-71 cents in the above Survey Numbers.

Counsel for the Petitioners : MR.G.KRISHNA MURTHY

Counsel for the Respondents : G.P. FOR REVENUE

The Court at the admission stage, made the following :

ORDER :

Heard the learned counsel for petitioner and the learned Government Pleader for Respondents.

The petitioners claims to be owners of agricultural lands to an extent of Ac.12-13 cents covered by Survey Nos.33 and 34 of Devarapalli village adjacent to the R & B road which is coming from Ravulapalem to Amalapuram and also claims that they have right to passage in the adjacent land which is known as puntha road which starts from petitioner's land at Muktheswaram and joins at Paliveila drainage channel of Amalapuram main channel. It is stated that the said drainage channel is only source of discharge of the drainage water from the petitioners land and also other neighbouring land owners and it is being used by the petitioners from the time immemorial to reap their agricultural fields apart from it is being used for transporting their agricultural products from their fields. Petitioners state that it is a customary right granted by the Government not only to the petitioners but also to other ryots and such rights cannot be impaired by assigning the lands in favour of fifth respondent. Hence, the petitioners challenge the proceedings issued by the District Collector dated 12.7.2004 whereunder the Gram Panchayat passed a resolution on the proposal submitted by the Chief Commissioner of Land Administration on 18.3.2003 resolving that the Gram Panchayat has no objection for the proposed alienation of land to power project. Apart from the same, the fifth respondent agreed for the demands made by the local people and surrounding ryots that they will form drain along the eastern side border of Puntha from main road to Palivela drains as

requested by the second petitioner and will allow the petitioner and his family members to use the present puntha after alternation for taking out their agricultural produce apart from donating funds for the development works in Devarapalli gram panchayat. In view of the same, the Gram Panchayat Devarapalli passed the resolution for alienation of the property in favour of fifth respondent, which resulted in passing of impugned order by the third respondent.

The learned counsel for petitioners submit that there is a canal poramboke (water body) which vests in Gram Panchayat and unless the same is de-notified, the Government could not have any power to alienate the same and as such the impugned order is liable to be set aside. The impugned order discloses that Ac.0-20 cents classified as canal poramboke (water body) was directed to be deleted from the area which is under alienation in favour of fifth respondent. In view of the same, I do not see any merit in the submission made by the learned counsel for petitioners. The learned counsel strenuously contends that the petitioners acquired a right to passage since several years and such right cannot be taken away by the respondents by alienating the same in favour of fifth respondent, which is purely a question of fact, which right has to be established with necessary pleadings and evidence in a properly constituted civil suit.

Having regard to the facts and circumstances of the case, I see no reason to interfere in the matter in exercise of power under Article 226 of the Constitution of India. However, if the petitioners are so aggrieved by the action of the respondents, the proper remedy is to approach the competent Civil Court seeking appropriate relief.

The writ petition, with the above observations, is accordingly dismissed. No costs.

A.GOPAL REDDY, J

Date: 30.7.2004

DA

To

1 The Secretary, Government of A.P., Revenue Dept., Secretariat

Building, Hyderabad.
2 The Chief Commissioner of Land Administration, Government of A.P.

Nampally Road, Hyderabad.
3 The District Collector, E.G.Dist., Kakinada .
4 The Mandal Revenue Officer, Ravulapalem Mandal E.G.District.
5. Two CCs to the G.P. for Revenue, High Court, Hyderabad (OUT)

6. Two CD copies.